

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0719

Date of Decision: 5 April 2018

Complaint

The customer's representative is the landlord of the customer who suffers from schizophrenia. The company did not attempt to contact the representative about a leak to the shared water supply. As a result, the landlord was not aware of the leak or able to make repairs. The customer's neighbour's share of the bill has been waived but not the customer's. This is unfair and discrimination.

Defence

The company sent letters to the account holders of the relevant properties advising of the leak. It worked with the customers that responded to it, explaining the situation. The customer did not respond to it and did not contact his landlord. After issuing a s75 notice, the company completed the repair work and charged the relevant customers. It has reduced the repair charges payable by the customer to remove charges associated with missed appointments. It was not aware that the customer was vulnerable and the customer's representative was not added as a third party on the account until January 2018.

No offer of settlement was made.

Findings

The company was not aware that the customer was vulnerable until after the leak had been repaired; the company's actions must therefore be assessed as though the customer was not vulnerable when the letters were sent. The company sent letters that advised of the leak and advised tenants to contact their landlord. The customer took no action and did not contact the company or the customer. The company worked with those customers that did contact it. Proper notice was given before the company repaired the leak. The company's refusal to apply a goodwill gesture to waive the charges for a tenanted property does not amount to discrimination. The bill has been reduced. There is no reason for it to be reduced further. The company followed an appropriate process in relation to the leak. There is no basis for awarding compensation for distress and inconvenience.

Outcome

The company does not need to take any further action.

The customer must reply by 3 May 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0719

Date of Decision: 5 April 2018

Party Details

Customer: [REDACTED]

Customer's Representative: [REDACTED]

Company: [REDACTED]

Case Outline

The customer's complaint is that:

- The customer is schizophrenic and is only able to deal with day-to-day tasks. Anything out of the ordinary can confuse him. A leak was diagnosed in July 2016. The customer was only contacted by letters. The customer did not understand these and did not reply to them. Even when he received visits about the leak, he was not advised to contact his landlord. There were no physical indicators of the leak and the customer did not understand what was wrong. It took almost a year for the company to obtain the customer's telephone number. The customer's representative, as landlord, was not contacted about the leak, despite being the party responsible for maintenance and repairs. The customer's representative has had two similar incidents in the past 5 years with other properties, but the company made her aware of each situation. The customer's representative is happy to complete repairs when advised of them. In this case, the failure to notify the landlord resulted in lost water and lost time, money, effort and resources. The customer's neighbour's share of the repair cost has been waived; the customer is unhappy at being treated differently and appears to have been discriminated against.
- The customer requests that, if two letters have not been responded to, the company send leak inspectors to knock on doors in the area of a leak to ensure that customers understand the situation, and to contact the property owner separately if different; for the customer to be treated the same as the neighbour and have the bill reduced to zero; and £200.00 in compensation for stress and inconvenience.

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The company's response is that:

- The company states that it sent letters to the customer as the consumer account holder advising of the leak. The letters advised the customer to contact his landlord if he was a tenant. The customer's representative was not a third party on the account until 4 January 2018 and the representative is not named as the landlord of the property. Letters were sent in accordance with Section 75 of the Water Industry Act 1991 and, when no notification of a repair was received, the company instructed contractors to complete an enforced repair. The leak was found on a section of pipe at number 25. The properties downstream of the leak are re-charged for the repair. The company removed the charges for the neighbouring property as a goodwill gesture as there were special conditions on that account that the company acknowledged. The customer's charges have been reduced but the enforced repair remains payable. The company denies the claim.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

How was this decision reached?

1. The customer suffers from schizophrenia and is confused by things that are out of the ordinary. Whilst no evidence of this has been provided, I accept the submission that the customer does

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suffer from mental health problems and that his account has since been flagged as a priority account with the customer's representative, his landlord, named as a third party on the account.

2. I am, however, mindful that the company was not made aware of the customer's mental health issues until 31 August 2017 when the customer's representative called the company. At this time, the customer's representative declined the offer of an 'access pack' as she did not believe the customer wanted to be considered as vulnerable. It was not until 4 January 2018 that the customer's representative was added as a third party to the customer's water account and he asked to be added to the priority list because of his mental health issues. I am mindful that, until this time, the customer had been able to manage the water account properly and that there was no indication, such as a history of non-payment, that the customer may require special treatment.
3. This affects how the decision must be made. Where a company is reasonably aware that a customer suffers from an issue, such as mental health difficulties, that means he is less able to handle a water account, it must make reasonable adjustments to accommodate these difficulties. However, where the company is unaware and has no reason to be aware of any issue, it is not under any obligation to treat the customer differently from an ordinary customer.
4. Accordingly, whilst I accept the customer's vulnerable status, I am only able to take this into consideration from 31 August 2017, and in full from 4 January 2018. The company's actions in respect of the leak must therefore be assessed against the standard applicable to all customer not identified as vulnerable.
5. The company identified a leak in the area of the customer's residence in July 2016. Letters were sent to the account holders of the affected properties on 14 November 2016. The letter advised that a leak had been found on the supply pipe and explained that the owner of a property to which water is supplied is responsible for the supply pipe from the external stop tap to the property. It also expressly stated that, if the account holder was a tenant, he would need to contact their landlord or housing association for help in getting the leak fixed. The letter also provided a telephone number for the customer to call if he had any questions.
6. The customer did not contact his landlord or the company in respect of this letter. I note that a 'Ms Brown' was added to the customer's account as a third party on 2 June 2017. It has not been explained who this person was. On 11 July 2017 a 'Jane' calling on behalf of the customer

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confirmed that they had been receiving letters from the company since 2016 but that they had not contacted the landlord.

7. As above, I must assess the case on the basis that no markers indicating that the customer was vulnerable had been identified and the company was not notified of his vulnerability until August 2017. Notwithstanding this, the evidence does suggest that the customer had assistance from Ms Brown and/or Jane during the period of the leak, but that this nevertheless did not result in the customer's landlord being informed of the leak.
8. In reviewing the correspondence, I am satisfied that the company followed the correct process in respect of repairing the leak, providing notice of the need for repair before giving notice, on 22 March 2017, that the company was arranging a contractor in accordance with s75(9) of the Water Industry Act 1991.
9. In reviewing the evidence, it is clear that there were delays in completing the repair due to local issues and that the leak was not repaired until 7 July 2017.
10. I am satisfied that the company acted appropriately in following the s75 procedure and completing the repair itself. It had issued letters to the houses it believed may be affected by the leak and had received responses from all residents except for the customer and his neighbour. The evidence shows that representatives of the company visited the area on a number of occasions and I am satisfied that, had the customer contacted the company or his landlord, the company would have been willing and able to visit him and the landlord to better explain the situation.
11. I acknowledge that the customer's representative, as landlord, was not contacted directly by the company. However, it is clear that the representative was not registered with the company as the landlord of the property. She was also not named as a third party on the account until January 2018. I am not persuaded, in the absence of the customer being known to the company as vulnerable, that there was any onus on the company to take further action to ascertain who the owner of the property was, beyond sending letters to the account holder.
12. In view of this, I am not persuaded that the company fell below the standard expected of a reasonable water provider in how it handled the notice of the leak and its subsequent repair.

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13. As above, I am satisfied that the company followed the correct process to complete the repair under s75(9) of the Water Industry Act 1991. This also allows the company to recover the reasonable cost of the repair from the “person on whom the [s75] notice was served”. As above, the repair notice was served on the account holder with a note to contact the landlord if the account holder was a tenant. I am satisfied that the company is able to apply the shared cost of repair to the customer’s account and that it is not obliged to pursue the property owner for this payment.
14. The customer submits that he has been treated differently from his neighbour as the neighbour’s share of the repair cost was waived in its entirety. He submits that this is unfair and possibly discrimination.
15. The precise reason for the neighbour’s share being waived by the company has not been specified for reasons of data protection. However, it appears to have been waived on the basis that the company was aware that the neighbour had vulnerable status. The company explains that it does have some allowances for vulnerable customers, but that these do not apply where the customer is a tenant. It assessed the charges and removed any charges for missed appointments as these were not due to the customer.
16. I find that there is no obligation on the company to provide goodwill gestures equally amongst its customers. In order to show discrimination, the customer must be able to show that he has been disadvantaged by a decision taken due, directly or indirectly, to a protected characteristic, such as his mental health difficulties. In this case, the company has explained that its policy in respect of assisting customers with goodwill gestures in relation to leaks does not apply to tenants. I am not persuaded that this decision was made directly or indirectly because of the customer’s mental health difficulties. As the company was not aware, at the time it arranged for the repair, of the customer’s mental health difficulties, there has been no indirect discrimination such as would have occurred if the company had been aware of his vulnerability and then failed to take reasonable measures to accommodate his difficulties.
17. In view of this, I am not persuaded that the customer has been discriminated against in respect of the company’s provision of goodwill gestures. I am not persuaded that the company is obliged to waive any part of the adjusted repair bill. I acknowledge that this may give rise to an appearance of unfairness given that the customer is also vulnerable, however as the company was not aware of this, it was not obliged to, nor given the opportunity to, accommodate his vulnerability at the time of the repair. I find no basis for the company reducing the repair costs further.

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18. The customer has requested that the company change its processes in how it contacts account holders and property owners in relation to leaks on private pipework. I have found that the company has complied with its legal obligations in respect to providing notice of the leak and the repair requirement. It did not have any awareness, nor should it have been reasonably aware, that the customer may require adjustments to be made that may have seen the company actively attempt to contact the customer's representative. Accordingly, whilst the company may wish to consider the suggestions of the customer's representative, I am unable to direct that it do so or implement any changes to its policies and processes.

19. The customer has requested that his bill is reduced to zero and he is treated the same as his neighbour. For the reasons given above, I have found that there is no basis for me to make a direction for the company to take this action.

20. Finally, the customer has requested £200.00 in compensation for inconvenience, stress and distress. Having reviewed the evidence fully, I am satisfied that the company sent proper notice to the account holders of the affected properties. The company has responded to each contact from the customer and his representatives and it reviewed the repair costs to see if these could be reduced. I am not persuaded that the company has fallen below the standard to be expected of a reasonable water supplier. I am therefore not persuaded that any compensation is payable for any distress and inconvenience experienced.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 3 May 2018 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.

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- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.
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A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a long horizontal stroke that ends in a small flourish.

Alison Dablin, LL.M, MSc, MCI Arb

Adjudicator

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